



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBa2423/1
CTS:kjf:jf

**SENATE AMENDMENT 1,
TO 2005 SENATE BILL 581**

February 24, 2006 – Offered by Senator DECKER.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 5, line 8: after that line insert:

3 “(2m) The department or a district attorney may commence an action in the
4 name of the state to recover a civil forfeiture of not less than \$100 nor more than
5 \$10,000 for each violation of this section.”.

6 **2.** Page 5, line 12: after that line insert:

7 “**SECTION 1m.** 100.55 of the statutes is created to read:

8 **100.55 Access to credit reports. (1) DEFINITIONS.** In this section:

9 (a) “Account review” includes review activities related to account maintenance
10 or monitoring, credit line increases, or account upgrades or enhancements.

11 (b) “Business day” means a business day, as defined in s. 421.301 (6), that is not
12 a legal holiday under s. 895.20 or a federal legal holiday.

1 (c) “Credit report” means any written, oral, or other communication of any
2 information by a credit reporting agency bearing on a individual’s credit worthiness,
3 credit standing, or credit capacity, which is used or is expected to be used, or collected
4 in whole or in part, for a purpose specified in 15 USC 1681b or for the purpose of
5 serving as a factor in establishing the individual’s eligibility for any of the following:

- 6 1. Credit to be used primarily for personal, family, or household purposes.
- 7 2. Employment, promotion, reassignment, or retention as an employee.
- 8 3. Rental of a residential dwelling unit.

9 (d) “Credit reporting agency” means any person who, for fees, dues, or other
10 compensation, or on a cooperative nonprofit basis, regularly engages in whole or in
11 part in the business of assembling or evaluating credit or other information on
12 individuals for the purpose of furnishing credit reports to 3rd parties, but does not
13 include any governmental agency whose records are maintained primarily for traffic
14 safety, law enforcement, or licensing purposes.

15 (e) “Eligible user” means a person who is allowed under federal law to obtain
16 an individual’s credit report.

17 **(2) RESTRICTION OF ACCESS.** (a) *Notice.* 1. If an individual provides notice, as
18 specified in subd. 2., to a credit reporting agency to restrict access to the individual’s
19 credit report, then, no later than the deadline specified in subd. 2., the credit
20 reporting agency may not, except as provided in sub. (3), release the credit report,
21 or any information included in the credit report, to a 3rd party without the
22 individual’s prior authorization.

23 2. An individual may provide the notice required under subd. 1. to a credit
24 reporting agency by certified mail, telephone, or, if allowed by the credit reporting
25 agency, electronic mail. The notice shall include information that allows the credit

1 reporting agency to verify the identity of the individual providing the notice. If a
2 notice includes such information, a credit reporting agency shall comply with subd.
3 1. no later than 5 business days after an individual provides notice by certified mail
4 or telephone and no later than 3 business days after an individual provides notice
5 by electronic mail.

6 3. No later than 5 business days after the deadline specified in subd. 2., the
7 credit reporting agency shall provide the individual with a unique personal
8 identification number or password for the individual to authorize release of the
9 individual's credit report as described in par. (b).

10 (b) *Access authorization.* 1. An individual who has provided notice under par.
11 (a) 1. to a credit reporting agency may request the credit reporting agency to release
12 the individual's credit report to a 3rd party upon the 3rd party's request or to any
13 eligible user who requests the credit report during a specified period of time. In
14 making a request, an individual shall provide the credit reporting agency with the
15 unique personal identification number or password described in par. (a) 3. and
16 identify the 3rd party or specify the period of time.

17 2. A credit reporting agency shall establish procedures for individuals to make
18 requests under subd. 1. The procedures shall allow an individual to make a request
19 by certified mail or telephone. The procedures may allow an individual to make a
20 request by electronic mail. A credit reporting agency shall disclose the procedures
21 to individuals who provide notice under par. (a) 1.

22 3. A credit reporting agency shall comply with a request made under subd. 1.
23 no later than 3 business days after the credit reporting agency's receipt of the
24 request.

1 **(3) RELEASE OF REPORTS.** (a) A credit reporting agency may release to 3rd
2 parties and eligible users the credit report of an individual who provides notice under
3 sub. (2) (a) 1. if any of the following apply:

4 1. The individual requests the credit reporting agency to release the credit
5 report to the 3rd party or eligible user under sub. (2) (b).

6 2. The individual provides the credit reporting agency a subsequent written
7 notice by certified mail that rescinds the notice provided under sub. (2) (a) 1. and
8 includes with the notice the unique personal identification number or password
9 described in sub. (2) (a) 3. No later than 3 business days after receipt of the notice,
10 the credit reporting agency shall eliminate the restrictions on access to the
11 individual's credit report that are otherwise required under sub. (2) (a) 1.

12 3. The individual makes a material misrepresentation of fact in a notice under
13 sub. (2) (a) 1., provided that the credit reporting agency notifies the individual in
14 writing about the misrepresentation at least 5 business days before the credit
15 reporting agency releases the credit report to 3rd parties.

16 (b) If a credit reporting agency releases an individual's credit report to a 3rd
17 party to whom the credit reporting agency is not authorized to release the report
18 under par. (a), the credit reporting agency shall, no later than 5 business days after
19 releasing report, notify the individual about the release. The notification shall
20 identify the 3rd party and the information released to the 3rd party.

21 **(4) EXCEPTIONS.** This section does not apply to the credit reports of an individual
22 that a credit reporting agency releases to, or for, any of the following:

23 (a) A person, or subsidiary, affiliate, agent, or assignee of a person, with whom
24 the individual has or, prior to assignment, had an account, contract, or

1 debtor-creditor relationship, for the purpose of account review or collection of a
2 financial obligation owing on the account, contract, or debt.

3 (b) A subsidiary, affiliate, agent, assignee, or prospective assignee of a 3rd party
4 or eligible user to whom the credit reporting agency is allowed to release a credit
5 report under sub. (3) (a).

6 (c) A court, state or local governmental agency, or law enforcement agency.

7 (d) A person acting pursuant to a court order, warrant, or subpoena.

8 (e) The department of workforce development or a county child support agency
9 for the purpose of enforcing support or maintenance obligations owed by the
10 individual.

11 (f) The department of health and family services or the department of
12 workforce development for the purpose of investigating suspected fraudulent
13 activity regarding the Wisconsin works program under ss. 49.141 to 49.161, medical
14 assistance under subch. IV of ch. 49, food stamp benefits under the food stamp
15 program under 7 USC 2011 to 2036, supplemental security income payments under
16 s. 49.77, payments for the support of children of supplemental security income
17 recipients under s. 49.775, or health care benefits under the Badger Care health care
18 program under s. 49.665.

19 (g) The department of revenue for the purpose of collecting delinquent taxes.

20 (h) The use of credit information for the purposes of prescreening as provided
21 under 15 USC 1681b (c).

22 (i) A person administering a credit file monitoring subscription service to which
23 the individual has subscribed.

24 (j) A person for the purpose of providing an individual with a copy of his or her
25 credit report upon the individual's request.

1 **(5) THIRD PARTIES.** (a) If a 3rd party requests access to a credit report that a
2 credit reporting agency may not release to the 3rd party under this section, then all
3 of the following apply:

4 1. If the 3rd party's request is in connection with the individual's application
5 to the 3rd party for credit or any other purpose, the 3rd party may treat the
6 application as incomplete.

7 2. The credit reporting agency shall notify the individual about the request.

8 (b) This section does not prohibit a credit reporting agency from advising a 3rd
9 party that an individual has provided a notice under sub. (2) (a) and that the credit
10 reporting agency must obtain the individual's authorization before releasing the
11 individual's credit report.

12 **(6) FEES.** (a) Except as provided in par. (b), a credit reporting agency may not
13 charge a fee to an individual for providing notice under sub. (2) (a), making a request
14 under sub. (2) (b), rescinding a notice under sub. (3) (a) 2., or taking any other action
15 allowed under this section.

16 (b) If an individual fails to retain the personal identification number or
17 password specified in sub. (2) (a) 3., a credit reporting agency may not charge the
18 individual a fee for reissuing the personal identification number or password or
19 issuing a new personal identification number or password, but the credit reporting
20 agency may charge the individual a fee of no more than \$5 for each subsequent
21 reissuance or issuance.

22 **(7) NOTICE.** Whenever a consumer reporting agency is required to provide an
23 individual with a notice under 15 USC 1681g regarding consumer rights under the
24 federal credit reporting law, the consumer reporting agency shall also provide the
25 individual with a notice in 12-point type in substantially the following form:

1 **RIGHT TO RESTRICT ACCESS TO CREDIT REPORTS**

2 Under Wisconsin law, you may restrict access to your credit report at no charge
3 to protect your privacy and ensure that credit is not granted in your name without
4 your knowledge. Wisconsin law provides this right so that you can prevent credit,
5 loans, and services from being approved in your name without your consent. If you
6 exercise this right, you can prohibit a consumer credit reporting agency from
7 releasing any information in your credit report without your express authorization.

8 If you notify a credit reporting agency that you want to exercise this right, the
9 credit reporting agency must, within 5 business days after receiving the notice,
10 provide you with a personal identification number or password, which you may use
11 for authorizing the release of your credit report to a specific party or to any party for
12 a specified period of time. Within 3 business days after you authorize the release of
13 your credit report, the credit reporting agency must make the report available to the
14 party you specified or for the period of time you specified.

15 The right described above does not apply if a party with whom you have an
16 existing account, contract, or debtor-creditor relationship requests your credit
17 report for certain account review activities.

18 If you are actively seeking credit, you should understand that, if you exercise
19 the right described above, you may delay your applications for credit. You should
20 plan ahead and authorize release of your credit report a few days before you actually
21 apply for credit.

22 If you exercise the right describe above, Wisconsin law allows you to bring a civil
23 action against a credit reporting agency that releases your credit report without your
24 authorization.

